

MDOT Real Estate Division • Public Roads & Private Property

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"No person shall...be deprived of life, or property without due process of the law; nor shall private property be taken for public use without just compensation."

Bill of Rights, Fifth Amendment to the United States Constitution

Need for Highway Improvements

Many Michigan highways built years ago have outlived their intended life spans. They are congested with traffic and need continual renovation and improvement. Preserving and improving our highways are top priorities of the Michigan Department of Transportation (MDOT).

Experience has proven that modern freeways reduce accidents, deaths, and injuries by 75 percent. Travel time between cities is reduced substantially, which is important because traffic volumes have climbed to record highs. In fact, travel in Michigan increased more than 30 percent in just 10 years. Safer, faster highways are significant factors in increasing business and industry for the State.

Freeways and other new and improved highways are an investment in Michigan's future. They provide more jobs, more progress, and more driving pleasure.

How a Route Is Determined

When a need is identified, a project is proposed to satisfy that need. The Michigan Department of Transportation staff study the type and route that best suit the needs of the community, both now and in the future. They study all land features. Feasible locations are reviewed at the sites and on detailed aerial maps. Traffic survey employees interview thousands of motorists and gather information to pin-point existing traffic flow. The public is given ample opportunity to provide input.

Many projects are the result of numerous public information meetings and hearings, as well as requests by local officials and the public for specific transportation improvements.

MDOT manages a vast scope of projects. Some are simple, others larger and more costly; yet they all fall into three categories: Preserve, Improve, or Expand. "Preserve" projects for roads include resurfacing, construction without widening, and adding lanes of one-half mile or less. "Improve" projects add capacity - in the case of roads or lanes -to existing facilities. "Expand" projects increase the size of the transportation system by adding new improvements.

The project, along with its estimated cost, is compared to other projects. Cost urgency, and other factors are given consideration. Some projects are accepted, some are returned for further study, and others are simply delayed.

How Property Is Purchased

After the Michigan Department of Transportation selects the exact location and design of the project, affected property owners are contacted for a preliminary interview. This interview may occur at a public building or at the owner's home. At the interview, Real Estate Division staff verify ownership, location of structures and boundaries, and other pertinent information.

The next step is to determine fair market value of the property being acquired. This is done by one of two methods - a market study-or an appraisal.

If the needed right-of-way is minimal, or if only temporary use permits are needed, a market study will be used and you will be asked to sign a waiver of appraisal. You may also request an appraisal.

If an appraisal is needed, licensed appraisers will estimate a fair market value for your property by comparing your property with similar properties sold in your area. You or your representative will be given the opportunity to accompany the appraiser on a thorough inspection of your property. In some instances, the appraiser may need to analyze some of your financial information to arrive at a fair market value.

Based upon these inspections and comparisons, the appraiser will provide the Department a written opinion of fair market value for your property. This appraisal is then reviewed to ensure that state and federal requirements and acceptable appraisal standards are met.

You will then be contacted by a negotiator for the Department. The negotiator will explain the project, schedules, appraisal, and relocation assistance, and make an offer to purchase that portion of your property needed for the project.

You will have a reasonable length of time to study the offer presented and to ask any questions. If you believe that the Department has overlooked an item of value, you may submit a written claim to reconsider value within

90 days of the offer. Supporting documentation must be submitted with this claim. On occasion, if it becomes apparent that your property may need a variance due to the acquisition, you may be asked to cooperate with the Department in seeking a variance to the zoning ordinance.

When an agreement has been reached between yourself and the Department, and you have signed the appropriate documents, you will receive payment within 60 days. All closing costs for the transaction will be paid by the Department.

When Your Property Is Acquired

Michigan Department of Transportation Will

1. Pay just compensation in exchange for your property.
 - Just compensation as defined by the courts is the payment of the FAIR MARKET VALUE for the property rights acquired, as if the project had not been contemplated, plus allowable damages to any remaining property.
 - Fair market value is defined as the highest price estimated in terms of money the property would bring if offered for sale in the open market, with a reasonable time allowed to find a buyer, buying with the knowledge of all the uses to which it is adapted and for which it is capable of being used.
2. Pay closing costs associated with the sale of your property to MDOT.
3. Pro-rate the general property taxes according to the portion of your land acquired by MDOT.
4. Furnish relocation advisory assistance in accordance with both federal and state laws.
5. Pay reasonable and necessary moving costs of personal property.
6. Pay other eligible benefits as provided by both federal and state laws, including:
 - Replacement housing supplement.
 - Increased interest differential payment on replacement home mortgage.
 - Reasonable incidental closing costs on replacement home.
 - Actual cost or scheduled move payment for residential owners.
 - Actual moving, searching, and reestablishment expenses for businesses, non-profits, and farms

Relocation Assistance

Your Michigan Department of Transportation wishes to assist you in relocating and reestablishing your family, your business, your farm, your non-profit organization, and your personal property when you are displaced by a highway project. A highway program is designed for the benefit of the public as a whole. It is the Department's desire to accomplish this in an orderly, timely, equitable, and efficient manner to ensure that you experience minimal hardships. The Department, through its Real Estate Division, will furnish all available assistance to make your relocation as easy as possible.

The available services include: information concerning housing supplements, referrals to housing that will be adequate for your needs and within your financial means, loan information, moving information, referrals to local real estate and governmental agencies, and other types of assistance. Assistance is also available to locate replacement farms or business sites.

As a citizen of the State of Michigan, you have the right to purchase, rent, lease, or finance housing accommodations and real property without discrimination because of religion, race, color, national origin, age, sex, marital status, familial status, or disability. This is guaranteed by the Constitution of the State of Michigan, which provides that the Michigan Civil Rights Commission has authority to protect the rights of Michigan citizens. All referral assistance to individuals and organizations is performed on an equal opportunity basis in compliance with these requirements. Any individual or organization known to be discriminating against relocatees will be reported immediately to the Civil Rights Commission.

Relocation Benefits

In addition to compensation for land, buildings, or property rights, Public Act No. 31, effective June 16, 1970, as amended, provides for relocation payments to individuals, families, businesses, farms, and non-profit organizations displaced as a result of a highway acquisition.

Moving Payments

Residential occupants will be reimbursed for a moving payment in one of two ways:

1. By choosing the actual reasonable moving cost based on a paid invoice from a qualified moving firm; or
2. By accepting a flat rate room allowance based on the number of occupied rooms.

Business, farm, and non-profit organizations will be reimbursed for a moving payment in one of two ways:

1. By choosing the actual reasonable moving cost based on a paid invoice from a qualified moving firm, plus eligible reestablishment expenses; OR
2. By accepting a lump sum payment based on an estimate of the cost to move, plus eligible reestablishment expenses. This is intended to cover self-moves.

The owner of a displaced business, farm, or non-profit organization may be reimbursed for:

- actual reasonable expenses incurred in searching for a replacement site based on documentation of mileage, meals, and time spent searching.

Discontinued or relocated businesses, farms, and non-profit organizations may be eligible to receive a fixed payment in lieu of moving, searching, and reestablishment expenses.

For businesses and farms, this payment is computed on the average annual net earnings of the business or farm. For non-profit organizations, the fixed payment is calculated on the average annual gross revenue less administrative expenses.

Supplemental Payments

An owner-occupant may receive a replacement housing supplement, as determined by the Department, when a replacement home is purchased. Provisions can be made if the owner-occupant prefers to rent.

When the owner-occupant purchases a replacement home, certain closing costs incidental to the purchase may be reimbursed.

The owner-occupant may also be reimbursed for an increased interest differential payment if they obtain a higher interest rate when financing their replacement home.

A tenant-occupant may receive a replacement rental supplement, as determined by the Department, to rent a replacement dwelling, or to use as a down payment on the purchase of a replacement dwelling. This payment can also be used as a reimbursement of certain closing costs incidental to the purchase of the replacement dwelling.

For more specific information regarding supplemental payments, refer to the relocation booklet, *Your Rights and Benefits*, or contact the Regional Real Estate Office.

At the conclusion of negotiations, if you do not wish to accept the Department's offer, eminent domain proceedings are initiated in circuit court under Act 295, Public Acts of 1966, as amended, pursuant to the provisions of Public Act 87 of 1980, as amended.

A brief summary of the steps under Act 87, as amended, are:

1) You will receive several legal documents. These will consist of a Complaint, Order for Hearing on Complaint, Statement of Necessity, and Declaration of Taking. The full amount of the money offered for the property as stated in the Declaration of Taking is placed on deposit with the State Treasurer.

2) The Order for Hearing on Complaint will inform you of the date set for a hearing. You have 21 days following receipt of the Complaint to challenge the necessity of the purchase of your property by filing a motion with the court asking for a review. The Statement of Necessity is binding unless you can show fraud, error of law, or abuse of discretion. When the necessity for the taking is not challenged, or the challenge has been denied, the Department acquires title to the property as of the date the Complaint was filed, unless the court sets a different date. If you or your attorney do not attend the hearing, the court may be requested to enter an Order of Default

You have 60 days from the date of filing to submit a written claim to the Department if you believe an item of value has been overlooked. You must provide sufficient information and detail about the claim so the Department can determine the value of the claim and whether it is eligible for payment.

3) At the first hearing, the Department will request the court to establish the time and terms for surrender of the right-of-way needed from your property. The court will be requested to order the State Treasurer to pay you the money the Department has offered for your property. The court will set a date for the pretrial hearing and impaneling of a six-person jury.

4) The court will establish a trial date, and the jury will be charged with the responsibility of determining the amount of just compensation after hearing the evidence. At trial, MDOT will present its case to the jury, justifying the amount it has offered. You will have the opportunity to present evidence to support the value you think the property is worth. The jury's decision may be appealed by the parties of interest or the Department.

If the jury's award exceeds the

Department's written good faith offer, you will be reimbursed reasonable attorney fees as allowed by law. You may also be reimbursed certain reasonable expert witness fees for preparation and trial. The court may be called upon to determine the reasonableness of fees.

This is a brief description of the typical steps taken in an eminent domain proceeding. This overview does not explain all of the specific or unique aspects of an eminent domain proceeding.
